

1 Magistrate Judge Paula L. McCandlis
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10 UNITED STATES DISTRICT COURT FOR THE
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 UNITED STATES OF AMERICA,
16 Plaintiff
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18 v.
19 BENJAMIN SHERWOOD,
20 Defendant.
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NO. MJ20-575
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COMPLAINT for VIOLATION
Title 18, United States Code,
Section 545 and Title 26, United States
Code, Sections 5841, 5861(d), and
5845(a)(7)

BEFORE United States Magistrate Judge Paula L. McCandlis, Seattle, Washington.

The undersigned complainant duly sworn states:

COUNT ONE

(Smuggling of Merchandise)

During August and September 2020, and continuing through on or about September 3, 2020, in Snohomish County, within the Western District of Washington, BENJAMIN SHERWOOD, knowingly did import merchandise, contrary to law, that is, a firearms silencer, then knowing that said merchandise had been imported and brought into the United States contrary to law.

All in violation of Title 18, United States Code, Section 545.

COUNT TWO

(Possession of Unregistered Firearm)

On or about September 3, 2020, in Snohomish County, within the Western District of Washington, BENJAMIN SHERWOOD, did knowingly possess a firearms silencer, namely, a black metal suppressor located in a cabinet in his residence, and which has not been registered to BENJAMIN SHERWOOD in the National Firearms Registration and Transfer Record.

All in violation of Title 26, United States Code, Sections 5841, 5861(d), and 5845(a)(7).

This Complaint is being presented electronically pursuant to Local Criminal Rule CrR 41(d)(3). The undersigned complainant duly sworn further states:

Introduction

1. I am a Special Agent (“SA”) with Homeland Security Investigations (“HSI”), United States Department of Homeland Security, and have been so employed since December 2003. I am a graduate of the Federal Law Enforcement Training Center (“FLETC”) academy in Glynco, Georgia. I am currently assigned to the HSI Border Enforcement Security Task Force in Seattle, Washington, which is tasked with investigating violations of U.S. law involving contraband smuggling, trade fraud and financial crimes. Prior to my employment with HSI, I was a United States Probation Officer for approximately three years and was a Correctional Officer and Case Manager with the Bureau of Prisons for approximately three years.

2. During my career, I have participated in investigations and executed search warrants involving theft, fraud, money laundering, smuggling, import and export violations, counterfeit goods, crimes against persons and drug trafficking. Because of this training and experience, I am familiar with common methods of investigating import and export violations and have become familiar with how smuggling schemes work. This experience includes knowledge on how individuals unlawfully import, export, store and resell smuggled goods, how individuals use the U.S. postal system to move contraband

1 and how those involved in contraband smuggling conduct financial transactions to
2 facilitate smuggling activity. I am also familiar with the manner in which individuals
3 illegally acquire and import firearms and firearm parts from foreign countries to the
4 United States, and the unlawful resale and distribution of firearm and firearm parts within
5 the United States.

6 3. I make this affidavit from personal knowledge based on my participation in
7 this investigation, including witness interviews by myself and/or other law enforcement
8 agents, communications with others who have personal knowledge of the events and
9 circumstances described herein, and information gained through my training and
10 experience. The information outlined below is provided for the limited purpose of
11 establishing probably cause and does not contain all details or all facts of which I am
12 aware relating to this investigation.

Facts Establishing Probable Cause

14 | A. Seized Parcel

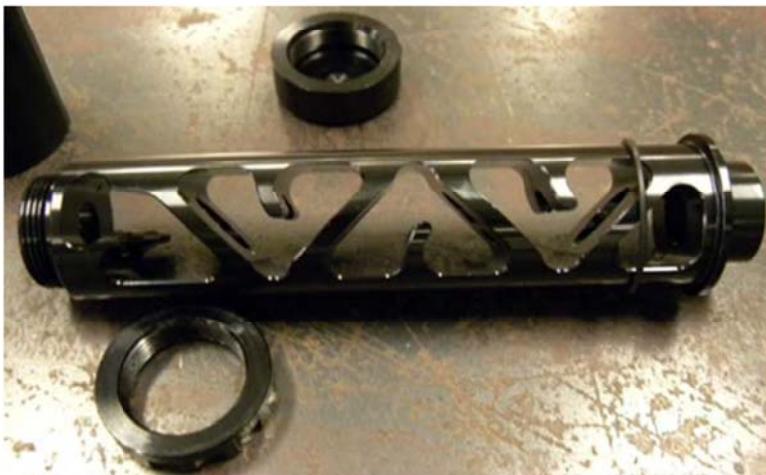
15 4. On August 7, 2020, Custom and Border Patrol Officers (CBP) at the San
16 Francisco International Airport inspected a parcel arriving from China. The shipping
17 address on the parcel was “XU XIN, guang zhou shi bai yun qu No. 119, Area A,
18 Guohong Industrial Park, No. 1 Diantai Road South, Wuyi Village Lishui Town,” and the
19 consignee was “Ben Sherwood, 13213 44th St NE, Lake Stevens Washington 98258-
20 9624, US United States of America.”

21 5. The parcel label stated it contained a shift knob. The shipping weight of this
22 parcel was 0.264 kilograms. CBP Officers examined the contents of the parcel and
23 determined the item to be consistent, in function and with the components, with that of a
24 firearm silencer, otherwise known as a firearm suppressor, not a shift knob. A shift knob
25 is an item on the end of a stick shift rod for manual transmission on a vehicle. The
26 appearance and use of a shift knob is distinctly different than a firearm silencer.

27 6. I have consulted with firearm experts with the Bureau of Alcohol, Tobacco,
28 and Firearms (ATF), including ATF Special Agent (SA) Claudia Grigore. Based on my

1 training and experience, and consultations with ATF experts, companies in China often
2 advertise these silencers as car parts or toys to mask the item and actual intended use, and
3 to enable smugglers to conceal the true nature of the commodity from customs inspectors.

4 7. I received the parcel with silencer on August 11, 2020. The below are
5 photographs of the silencer:



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25 8. SA Grigore has received specialized training on firearms, which includes
26 training on silencers. I have also reviewed ATF Firearms & Ammunition Technology
27 Division Technical Bulletin 20-01 of October 30, 2019, (ATF Bulletin 20-01) concerning
28 components of a silencer. SA Grigore and I have examined the item in the parcel

1 addressed to Ben Sherwood, and based on my training and experience, and consultation
 2 with SA Grigore, the parcel contains all the components to be a silencer, including baffles
 3 and marked points for simple machine work, assembly, and adaptation. These
 4 components are also noted in ATF Bulletin 20-01 as components for a silencer. The
 5 silencer pictured in ATF Bulletin 20-01 is as follows, and is similar to the silencer in the
 6 seized parcel:



9. During my open source research of how to purchase silencers online from
 10 China, many of silencers were found on internet sites claiming to sell children's toys or
 11 vehicle parts. All of the sites required electronic payment, often via PayPal. Contact is
 12 limited to email or a contact form, and only in one instance, could I find a listed phone
 13 number for the business. Otherwise all orders and payment for orders had to be made
 14 online.

15. Title 18, United States Code, Section 545 prohibits the importation of
 16 merchandise that is fraudulently identified to conceal the true nature of the merchandise.
 17 Based on my training and experience, silencers are commonly masked as other items,
 18 such as toys or vehicle parts, on the import manifest. In this instance, the parcel addressed
 19 to Ben Sherwood is consistent with the smuggling techniques used by persons who place
 20 online orders for firearms silencers, knowing that the parcel manifest will list a different
 21 type of item, such as a shift knob, to conceal the true nature of the content of the parcel.

22. I have conducted background research on Sherwood and learned that he
 23 Complaint/*United States v. Benjamin Sherwood* - 5

24. UNITED STATES ATTORNEY
 25. 700 STEWART STREET SUITE 5220
 26. SEATTLE, WASHINGTON 98101

1 was previously enlisted with the United States Marine Corp. from April 4, 2005, to
 2 March 7, 2008. With this prior experience in the United States Marine Corp., I believe
 3 that Sherwood is thoroughly familiar with firearms and the components of firearms,
 4 including silencers. Public records list Sherwood as residing at 13213 44th Street N.E.,
 5 Lake Stevens, Washington. This is the same address for the delivery address on the parcel
 6 containing the silencer.

7 12. Sherwood is not prohibited under federal law from possessing firearms.
 8 However, the National Firearms Act requires persons who possess certain firearms, as
 9 defined by Title 26, United States Code, Section 5845(a), to be registered in the National
 10 Firearms Registration and Transfer Record (NFRTR). A silencer, in Section 5845(a)(7),
 11 is one of the specific type of firearms that is required to be registered in the NFRTR.
 12 Sherwood does not have any firearms registered with the NFRTR.

13 13. On September 2, 2020, I applied for and was granted a search warrant by
 14 the Honorable Michelle L. Peterson, United States Magistrate Judge, Western District of
 15 Washington, No. MJ20-570, to search Benjamin Sherwood's residence located at 13213
 16 44th Street N.E., Lake Stevens, Washington, for firearms, firearm silencers, and
 17 documents and records related to the smuggling and possession of firearms and firearm
 18 silencers.

19 14. On September 3, 2020, other agents and I arranged for a controlled delivery
 20 of the parcel containing the firearm silencer to Benjamin Sherwood. Benjamin Sherwood
 21 was called by a postal employee and told that he had a package with an incomplete
 22 address at the post office and would need to pick it up. Sherwood arrived at the Lake
 23 Stevens Post Office a short time later and picked up the package. As he approached his
 24 vehicle with the package, Sherwood was contacted by agents and directed into a law
 25 enforcement vehicle where he was advised of his *Miranda* rights. Sherwood indicated he
 26 understood his rights and agreed to speak with agents. SA Grigore and I drove with
 27 Sherwood to his residence and conducted an interview of him while other agents initiated
 28 the search of the residence.

1 15. We asked Sherwood what was in the package he received at the post office.
 2 Sherwood stated he did not know but that the package and labels looked similar to the
 3 others he has received from China. We asked Sherwood to open the package and he did.
 4 Sherwood stated that he did not know what the item inside the package was and did not
 5 know or remember ordering it. Eventually, Sherwood admitted that he had ordered it but
 6 claimed it was a solvent trap for one of his firearms, but could not remember which
 7 firearm he ordered it for.

8 16. Agents located computers in the residence and Sherwood identified one of
 9 the computers as the one he primarily uses. He gave consent to search the computer and
 10 provided account login and passwords for certain online accounts. A Computer Forensics
 11 Agent previewed Sherwood's computer and was able to access the website, AliExpress,
 12 an online retail website based in China. We reviewed a portion of Sherwood's order
 13 history. There were at least two of his orders that had images of firearm silencers as the
 14 item purchased by Sherwood.

15 17. Sherwood stated he had purchased another "solvent trap" for his rifle
 16 previously, and had received it several months ago. He told agents it was located in his
 17 home, in the closet above the pantry on the right-hand side. Agents searching the
 18 residence located a black metal firearm silencer in that location with a firearm and
 19 firearm accessories. The silencer was in a cardboard box which appeared to be the
 20 original packaging that it had been shipped in. SA Grigore and I later examined it, and it
 21 appeared to be similar to the silencer that had been in the parcel delivered to Sherwood
 22 earlier that day.

23 18. Sherwood stated that someone told him about using solvent traps and that
 24 he could save cleaning oil and not have oil drips come out of his firearms by using one.
 25 He could not remember who told him, where he heard the information, or when. He
 26 claimed to have purchased the silencer on AliExpress by searching for "Solvent Trap"
 27 and picked one that would fit his rifle with a low price. Sherwood explained how he
 28 could determine the thread size needed for a 'solvent trap' to fit his firearms. During this

1 explanation, it was clear that Sherwood was very familiar with firearms and parts of
 2 firearms. He stated that he could not locate a ‘solvent trap’ at a “brick and mortar” store
 3 or from an online retailer in the United States, and that he could obtain a ‘solvent trap’
 4 online through China at a lower price. He admitted that certain requirements, including a
 5 tax stamp and an ATF form, would be needed to purchase a silencer in the United States.
 6 Sherwood denied modifying any of his firearms with a silencer.

7 19. Sherwood stated he had never used the item that he referred to as a solvent
 8 trap, nor had he attached it to his gun. He claimed not to have cleaned his guns in a long
 9 time. But later in the interview, Sherwood stated he shot his firearms at least weekly and
 10 cleaned them monthly. Sherwood explained that a solvent trap is used to catch oil that
 11 runs down the barrel of the firearm after cleaning, and that he purchased the solvent trap
 12 so that he could store his rifle with it attached and it would catch the oil. Sherwood was
 13 unable to provide a clear answer about how he cleaned his firearms other than oil to parts
 14 and protectants to the surface.

15 20. Agents located numerous firearms during the search of Sherwood’s
 16 residence and property, including four handguns and seven long guns. There were also
 17 numerous firearm parts and accessories, and an abundance of ammunition. Sherwood’s
 18 property included a shooting range in the back area. Sherwood stated that he also builds
 19 firearms, and that he is in the process of building an AR10 at one of his friend’s houses.
 20 Sherwood stated he has ordered parts to build another AR10.

21 21. After the interview, I conducted a search on the AliExpress website using
 22 the search term, “solvent trap”. The site returned many items that appear to be silencers
 23 or suppressors but listed the items as fuel filters, solvent traps, NAPA 4003 filters, and
 24 inline fuel filters. When I selected an item labeled “solvent trap” the description said it
 25 was a “solvent trap for NAPA 4003”. No firearms were mentioned that the solvent trap
 26 would be used with. This happened for several items listed for sale as “solvent traps” on
 27 AliExpress. ATF Bulletin 20-01 lists “NAPA4003” as the common search term people
 28 use for finding suppressors to purchase online that are often called fuel filters, solvent

traps or inline fuel filters. Searching “NAPA4003” also returns many videos of how to adapt solvent traps and fuel filters to be suppressors.

3 22. Sherwood was in the United States Marines and Marines are taught how to
4 clean their firearms and he would be knowledgeable about the process of cleaning
5 firearms that would not result in having any oil leak down the barrel. Based on my
6 training and experience, I know that it is not a common occurrence for oil to run out of
7 the barrel of any firearm after cleaning. Moreover, I know that persons familiar with
8 firearms and who possess and use firearms do not typically own or use solvent traps.

Conclusion

10 Based on the foregoing, I submit there is probable cause to believe that
11 BENJAMIN SHERWOOD committed the crimes of Smuggling of Merchandise, in
12 violation of Title 18, United States Code, Section 545, and Possession of Unregistered
13 Firearm, in violation of Title 26, United States Code, Sections 5841, 5861(d), and
14 5845(a)(7).

Dated this 4th day of September 2020.

Jill Peoples
JILL PEOPLES, Complainant
Homeland Security Investigations, Special Agent

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds there is probable cause to believe that the defendant committed the offense set forth in the Complaint.

DATED this 4th day of September 2020.

Paula L. McCandlis
PAULA L. McCANDLIS
United States Magistrate Judge